

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-80101-CR-CANNON

UNITED STATES OF AMERICA,

Plaintiff,

v.

**DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,**

Defendants.

_____ /

**UNITED STATES' SUPPLEMENTAL MOTION FOR PROTECTIVE ORDER
PURSUANT TO SECTION 3 OF THE CLASSIFIED INFORMATION
PROCEDURES ACT**

The United States of America, by and through the Special Counsel's Office, respectfully moves for the entry of the attached Protective Order Pertaining to Classified Information. In support of its motion, the Government states as follows:

1. On June 8, 2023, a grand jury in this district returned an indictment against Defendants Trump and Nauta. On July 27, 2023, the Government filed its Renewed Motion for Protective Order Pursuant to § 3 of the Classified Information Procedures Act. ECF No. 84. The Government hereby incorporates the information set forth in paragraphs 2 and 3 of that motion. Also on July 27, a grand jury in this district returned a superseding indictment, which added a third defendant, Carlos De Oliveira. ECF No. 85.

2. On August 17, 2023, this Court entered an Order requiring that "[a]ny forthcoming motion for a CIPA Section 3 Protective Order as to Defendant De Oliveira shall be filed on or

before August 22, 2023, following meaningful conferral” ECF No. 124. That same day, the Government sent to counsel for De Oliveira its proposed protective order incorporating De Oliveira. On August 18, the parties conferred about the proposed protective order. Counsel for De Oliveira relayed that De Oliveira’s only objection to the proposed protective order is the same objection made by Nauta; that is, De Oliveira objects to the provisions of the proposed protective order—paragraphs 8 and 26.j—that do not provide him unfettered access to classified discovery. De Oliveira’s counsel authorized the Government to represent that they adopt the arguments made in Nauta’s Response, ECF No. 105, and do not intend to file a separate response unless otherwise ordered by the Court.

3. Like Nauta, De Oliveira is not charged with any offense under 18 U.S.C. § 793, does not have a security clearance, and has not established that he has a need to know the sensitive information in the classified documents that will be provided in classified discovery. In fact, to the Government’s knowledge, Defendant De Oliveira has never possessed a security clearance, seen classified information, or been trained on the protection and proper handling of such information. For the same reasons as set forth in the Government’s Renewed Motion, ECF No. 84 at 3-5, and the Government’s Reply, ECF No. 120 at 5-10 (citing cases approving decisions not to disclose classified information to defendants and, in some instances, even to cleared counsel), the provisions of the Government’s proposed protective order appropriately allow De Oliveira’s counsel a mechanism to share classified information with De Oliveira on a case-by-case basis if a need to know is established. Providing De Oliveira unfettered access to several thousand pages of highly classified information, however, would be inconsistent with the law.

4. The Government is attaching a revised version of its proposed protective order. The caption of the case has been updated to include De Oliveira, as have the procedures set forth

in paragraphs 8 and 26.j regarding the dissemination of classified information. The information in paragraph 14 and in footnotes 3 and 5 regarding the status of defense counsel's clearances has also been updated. The Government inserted the word "may" in the first sentence of paragraph 16. The proposed protective order is the same in all other respects as the proposed protective order filed with the Government's Renewed Motion, ECF No. 84-1.

WHEREFORE, the United States respectfully requests that the Court enter the attached protective order.

Respectfully submitted,

JACK SMITH
Special Counsel

By: /s/ Jay I. Bratt
Jay I. Bratt
Counselor to the Special Counsel
Special Bar ID #A5502946
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Julie A. Edelstein
Senior Assistant Special Counsel
Special Bar ID #A5502949

David V. Harbach, II
Assistant Special Counsel
Special Bar ID #A5503068

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 18, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

s/ Julie A. Edelstein

Julie A. Edelstein

Senior Assistant Special Counsel